

FPPC REGULATION AND PROJECT CALENDAR -- MARCH 2003 UPDATE

A. STATUTORILY REQUIRED OR OTHERWISE HIGH-PRIORITY ITEMS¹

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Reg. 18312: Rulemaking Procedure. The Commission will consider streamlining the regulation adoption process. This may include regulatory changes.	Adoption											
2. Reg. 18313: Forms & Manuals. Reg. 18313 requires the Commission to mail a copy of a new or revised publication to interested persons prior to consideration. The amendment is proposed to allow e-mail and web-based notice to interested persons.			Adoption									

¹ Shaded rows indicate completed projects.

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3. Reg. 18754 § 87302.6: Newly Created Boards & Commissions: § 87302.6 requires members of boards and commissions of newly created state and local agencies to file SEIs in the same manner as § 87200 filers until the agency has an approved conflict of interest code. Section 87302.6 does not specify where these statements will be filed or the content of disclosure.	Pre- Notice or ER Adoption	IP Meeting	Adoption									
4. Reg. 18702.5: Declaring a Conflict of Interest: AB 1797 would require that a public official who holds an office specified in section 87200 and who has a financial interest in a decision to publicly identify the financial interest giving rise to the conflict of interest, recuse himself or herself from discussing and voting on the matter, and leave the room until after the discussion, vote, or other disposition of the matter is concluded, except as specified.	Pre- notice	IP Meeting	Adoption									

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5. Section 87103.5; Reg. 18707.5 (AB 2366): Retail Merchants' "Public Generally" Exception: New amendments add an alternative method to determine when income received from a customer falls into this existing "public generally" exception.										Pre-notice		Adoption
6. Section 89519: Surplus Funds. Where campaign funds become surplus campaign funds, the personal use law limits their expenditure. In 1990, the Commission adopted a regulation clarifying this provision. However, OAL rejected it. With the introduction of Prop 34 transfer rules, the Commission will reconsider whether regulatory clarification may be useful.						Pre-Notice or Adoption		Adoption if needed				

Jan. Feb. Mar. April May June July Aug. Sept. Oct. Nov. Dec.

<p>7. Reg. 18452: CalPERS' Election Reporting: § 84225 requires candidates for the CalPERS Board to file campaign statements. Reg. 18452 provides the filing schedule and the contents of the statements. CalPERS' election schedule provides for runoff elections. Reg. 18452 may need to be amended to allow for the runoff elections.</p>							Adoption					
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B. ON-GOING PROJECTS: Campaign

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. <i>Proposition 34 Update:</i> It is too soon to tell what additional major policy issues are raised by full implementation of Proposition 34 in the November general election. November 2002 is the first general election to which these provisions apply. Staff anticipates that there will be a need for further review of the implementation of Proposition 34.				IP Meeting		Discuss	Pre-Notice If Req.		Adoption If Req.			
2. <i>"Independent Expenditure"</i> (Regs. 18225.7 & 18550.1) § 82031 defines "independent expenditure." The proposed regulation clarifies the "made at the behest" test.	Adoption Set for Another Meeting		Pre-Notice or Adoption									
3. <i>Reg. 18225: Expenditure.</i> The Commission will discuss "express advocacy" as defined in this regulation. No regulatory action is currently anticipated.	Staff Discussion Memo		Staff Memo		Pre-Notice		Adoption					

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<p>4. Late Contribution Reports: Reg. 18116 provides that when reports are due on a Saturday, Sunday, or official state holiday, the deadline is changed to the next working day, except for late contribution reports and late independent expenditure reports. The Commission has been asked to apply the weekend extension to traditional LCRs.</p>	Adoption Deferred for two years											
<p>5. Affiliated Entities (18428): Defines "affiliated entities" for reporting purposes. May be further amended to require additional disclosures on the Form 460, and to bring this general provision into harmony with regulation 18419, governing sponsored committees.</p>	IP Meeting		IP Meeting		Pre- Notice or Adoption		Adoption if needed					

C. ON-GOING PROJECTS: Conflict of Interest and Others.

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Property "Subject of" a Decision: Reg. 18704.2 sets out a list of situations in which an official's property is considered directly involved in a decision. The Commission has been asked whether this list is an exclusive list even in applying the indirect rule for materiality (i.e., where an official's real property is within 500 feet of the property that is the subject of a decision).	Adoption											
2. General Plans and Conflict of Interest (Regs 18704.2, 18707.1, and 18709): The Commission will consider whether clarifying amendments to the materiality or public generally regulations are needed regarding general plan decisions. May also include codification of "segmentation" rules.	<u>Pre-Notice</u>	<u>IP Meeting</u>	Adoption	<u>Pre-Notice</u>		<u>Adoption</u>						

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<p>3. Reg. 18709: <u>Codification of segregation rules:</u> <u>Generally, the conflict of interest rules of the Act are applied on a decision-by-decision basis. Thus, where a major series of decisions can be “segmented” into smaller decisions, the official may be able to participate in some of those decisions. This reg codifies a process for segmentation.</u></p>				Pre- Notice		Adoption						
<p>4. Reg. 18700: Basic Rule: Guide to Conflict-of-Interest Regulations. In 1998 a chart was inserted into this regulation indicating the relocation of the various rules as part of the massive restructuring of the conflict-of-interest regulations that was adopted that year. Since that time, the conflict-of-interest regulations have gone through several more revisions and the usefulness of the chart is diminished. The Commission will consider removing the chart.</p>	Adoption Proposal Adopted in 2002											

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<p>5. Small Cities - Public Generally-- Reg. 18707.3: Reg. 18707.3 provides an exception geared specifically toward small jurisdictions. Staff has been asked to review the regulation to see if language can be tailored to meet this unique concern of small cities.</p>	Adoption <u>Repeal</u>											
<p>6. Reg 18329.5: Formal Written Advice and Informal Assistance. This item includes procedures that will enable the Commission to effectively advise individuals of an agency, or code reviewing bodies, on the content of an agency's conflict of interest code.</p>	Adoption	<u>IP Meeting</u>		<u>Adoption</u>								

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7. Guidelines and procedures for filing officers/officials. Guidelines to be considered include: (a) Initial notification requirements (timelines); (b) Required contacts or attempted contacts with each non-filer, and documentation requirements for those contacts; and (c) Authority to hold filing officers/officials accountable for failing to comply with notification requirements. <i>[Regulatory action contingent on passage of legislation.]</i>										IP if Needed		Adoption if Needed

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<p>8. Reg. 18703.3: Disclosure of Incentive Income. In re Hanko: On August 9, 2002, the Commission adopted <i>In re Hanko</i> (O-02-88), which held that payments to a hospital district director from her employer will be attributed to a purchaser of her employer's products under certain circumstances. The Commission directed staff to investigate amendment of Commission regulations to require disclosure of incentive income.</p>								Pre-Notice		Adoption		

D. OTHER MISCELLANEOUS ITEMS

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Annual Technical Clean-up. The Commission considers annually changes to Commission regulations that resulted from the staff's review for technical and other minor changes.									Adoption			
2. Quarterly review of work plan and plan updates, including Proposition 34.			Work Plan Revision			Work Plan Revision			Work Plan Revision	2004 Reg. Calendar		2004 Reg. Calendar
3. Selection of Local Candidates and Controlled Committees for Audit: Reg. 18991 dictates the procedure that shall be followed by the Commission for selecting local candidates and their controlled committees for audit by the Franchise Tax Board. The Commission may wish to amend the regulation to improve the method of selection.	Adoption											

E. NEW ITEMS

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Reg. 18530.2: <u>Transfer/attribution of funds raised prior to Proposition 34 limits</u>	<u>ER Adoption</u>			<u>Perm Adoption</u>								
2. Reg 18370 State Agency Ethics Training: <u>With passage of AB 3022, the requirement to receive ethics training has been expanded from high-level public officials to all officials required to file statements of economic interests. This may require revision to Regulation 18370.</u>						<u>Adoption</u>						

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<p>3. Reg 18404.1 Termination of Committees Appeal Procedure. Reg. 18404.1 requires termination of committees after a specified period of time. However, the regulation also allows the Executive Director to extend this period under certain circumstances. This proposed project would develop a procedure for the appeal of the Executive Director's decision.</p>						Adoption						
<p>4. Reg 18427.1 Notification to Contributors of \$5,000 or More: Vigo Nielsen of Nielsen Merksamer has requested amendment Reg. 18427.1(b) to clarify the notice to major donors that they must file a Late Report if their contribution or expenditure occurs during the late contribution period.</p>									Adoption			